

85786

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE:

Félix Ángel Falcón Figueroa
Myrna Jurado Rodríguez

Debtors

Case Number: 15-04065-MCF

Chapter: 13

MOTION TO DISMISS PURSUANT TO 11 U.S.C. §1307 (c)(6)

TO THE HONORABLE COURT:

COMES NOW Scotiabank of Puerto Rico, hereinafter referred to as "Scotiabank", through the undersigned attorney and very respectfully states, alleges and prays:

1. **Félix Ángel Falcón Figueroa** and **Myrna Jurado Rodríguez** hereinafter will be referred to as **"the Debtors"**.
2. Scotiabank is a secured creditor of the above named Debtors and therefore a party in interest in the subject case.
3. The Debtors' confirmed payment plan requires that monthly regular payments be made by the Debtor/Debtors directly to Scotiabank.
4. As of December 18, 2017, the Debtors had post-petition installments in arrears to Scotiabank amounting to **\$2,170.53 plus \$250.00 in legal fees. [Refer to EXHIBIT I attached hereto, which includes an itemized statement of the arrearage].**

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5. The mortgage encumbers the property described in Spanish as follows, hereinafter referred to as the "Property":

RURAL: Lot marked with the number 14 in the inscription plans, located at BAYAMÓN WARD, of Cidra, Puerto Rico. It has a superficial area 3,930.40 square meters, equivalent to 1.00 cuerda, it measures and bounds by the North, in 35.69 meters, with the remnant of the principal property owned by Cristino Cotto Fonseca and his wife Gregoria Falcón Lozada; by the South, in 57.00 meters, with land belonging to The Estate of Juan Cotto; by the East, in a distance of 67.50 meters, with Lot No. 3 and in one other of 10.00 meters, with a municipal road; and by the West, in two boundaries that measure 100.10 meters, with land belonging to Enrique Pérez. It contains a two-level residential dwelling, valued at \$90,000.00, as per Deed No. 23 executed in San Juan on October 6th., 2006, before Notary Public José Alberto Candelario Lajara, recorded at page 61 overleaf of volumen 361 of Cidra, property No. 13942, third inscription.

6. The Debtors' failure to make payments due under the mortgage results in the Debtors' material default with the terms of the confirmed plan. This constitutes cause for dismissal pursuant to 11 U.S.C. §1307 (c)(6) which provides that:

(c) Except as provided in subsection (e) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or **may dismiss a case under this chapter**, whichever is in the best interests of creditors and the estate, for cause, including –

...

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Motion To Dismiss Pursuant TO 11 U.S.C. §1307 (c)(6)

(6) **material default by the debtor with respect to a term of a confirmed plan;**
(Underscore ours)

7. Attached hereto as **EXHIBIT II** is the non-military service affidavit required for the entry of an order by default by the Servicemembers' Civil Relief Act, 50 USC Appx. §521.

WHEREFORE Scotiabank respectfully requests from this Honorable Court to grant this motion and consequently dismiss the present case pursuant to 11 U.S.C. § 1307(c)(6), for the debtor's failure to comply with the provisions of the confirmed plan.

NOTICE TO ALL PARTIES IN INTEREST

Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise. If no response is filed within the prescribed period of time the Court may enter an order granting the relief herein requested.

RESPECTFULLY SUBMITTED

I HEREBY CERTIFY that on this date I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Chapter 13 Trustee, **Alejandro Oliveras Rivera** and **to**

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Motion To Dismiss Pursuant TO 11 U.S.C. §1307 (c)(6)

the debtors' attorney, Roberto Figueroa Carrasquillo. I hereby certify that I have mailed by United States Postal Service a copy of this motion to the all of the creditor included in the attached Master Address List.

In San Juan, Puerto Rico, this ~~21st~~ ^{27th} day of December, 2017.

MARTINEZ & TORRES LAW OFFICES, P.S.C.

P.O. Box 192938 San Juan, PR 00919-2938

Tel. (787) 767-8244 & Fax (787) 767-1183

/s/ Patricia I. Varela Harrison

By: Patricia I. Varela Harrison

USDC -PR 224802

pvarela@martineztorreslaw.com

BUFETE: MARTINEZ & TORRES LAW OFFICES,P.C.S.

**UNSWORN STATEMENT
UNDER PENALTY OF PERJURY**

The undersigned hereby certifies the following under penalty of perjury:

Debtor(s): FELIX A FALCON FIGUEROA
MYRNA JURADO RODRIGUES

Loan No.: 000600046903

Bankruptcy No.: 15-04065

Post-petition arrears:	(3)	months at	\$695.16	=	\$2,085.48
	(3)	L/C	\$28.35	=	\$85.05

Current principal: \$57,680.41

\$ 2,170.53

Name: 

Legal Division

Date: December 18, 2017

Label Matrix for local noticing
0104-3
Case 15-04065-MCF13
District of Puerto Rico
Old San Juan
Fri Dec 22 11:06:43 AST 2017

DEPARTAMENTO DE HACIENDA
PO BOX 9024140
OFICINA 424-B
SAN JUAN, PR 00902-4140

INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY OPERATIONS
PO BOX 7346
PHILADELPHIA, PA 19101-7346

MIDFIRST BANK
999 NW GRAND BLVD
OKLAHOMA CITY, OK 73118-6051

PR DEPARTMENT OF LABOR
PO BOX 195540
HATO REY, PR 00919-5540

SCOTIABANK DE PUERTO RICO
MARTINEZ & TORRES LAW OFFICES, P.S.C
P.O. BOX 192938
SAN JUAN, PR 00919-3409

SCOTIABANK OF PUERTO RICO
MARTINEZ & TORRES LAW OFFICES, P.S.C.
PO BOX 192938
SAN JUAN, PR 00919-3409

US TRUSTEE
EDIFICIO OCHOA
500 TANCA STREET SUITE 301
SAN JUAN, PR 00901-1922

US Bankruptcy Court District of P.R.
Jose V Toledo Fed Bldg & US Courthouse
300 Recinto Sur Street, Room 109
San Juan, PR 00901-1964

ASSOCIATES
PO BOX 11917
SAN JUAN, PR 00922-1917

ASSOCIATES FINANCE
PO BOX 11917
SAN JUAN, PR 00922-1917

American InfoSource LP as agent for
T Mobile/T-Mobile USA Inc
PO Box 248848
Oklahoma City, OK 73124-8848

CITI CARDS
PO BOX 11917
SAN JUAN, PR 00922-1917

CITIBANK
PO BOX 11917
SAN JUAN, PR 00922-1917

CITIBANK CCSI
PO BOX 11917
SAN JUAN, PR 00922-1917

CITIBANK MORTGAGE
PO BOX 11917
SAN JUAN, PR 00922-1917

CITIBANK NA
PO BOX 11917
SAN JUAN, PR 00922-1917

CITIBANK SOUTH DAKOTA
PO BOX 11917
SAN JUAN, PR 00922-1917

CITIBANK USA
PO BOX 11917
SAN JUAN, PR 00922-1917

CITICARDS
PO BOX 11917
SAN JUAN, PR 00922-1917

CITICARDS CREDIT SERVICES
PO BOX 11917
SAN JUAN, PR 00922-1917

CITICARDS SEARS
PO BOX 11917
SAN JUAN, PR 00922-1917

CITICORP DINERS
PO BOX 11917
SAN JUAN, PR 00922-1917

CITICORP FINANCE
PO BOX 11917
SAN JUAN, PR 00922-1917

CITIFINANCIAL
PO BOX 11917
SAN JUAN, PR 00922-1917

Capital One Bank (USA), N.A.
PO Box 71083
Charlotte, NC 28272-1083

(p)CAPITAL ONE
PO BOX 30285
SALT LAKE CITY UT 84130-0285

DORAL FINANCIAL CORPORATION
LOPEZ SANCHEZ PIRILLO & HYMOVITZ LLC
PO BOX 11917
SAN JUAN, PR 00922-1917

First Bank De Puerto Rico
PO Box 9146
San Juan, PR 00908-0146

First Bank Of Puerto Rico
PO Box 9146
San Juan, PR 00908-0146

MIDFIRST BANK
ATTY JUAN B SOTO
1353 LUIS VIGOREAUX AVE
PMB 270
GUAYNABO PR 00966-2715

MONEY EXPRESS
CONSUMER SERVICE CENTER
BANKRUPTCY DIVISION (CODE 248)
PO BOX 9146
SAN JUAN PR 00908-0146

Midland Mtg/Midfirst
999 Nw Grand Blvd
Oklahoma City, OK 73118-6051

Money Express
PO Box 11890
San Juan, PR 00922-1890

Municipio Autonomo De Caguas
PO Box 907
Caguas, PR 00726-0907

PANAMERICAN/CITIBANK
PO BOX 11917
SAN JUAN, PR 00922-1917

(p)PORTFOLIO RECOVERY ASSOCIATES LLC
PO BOX 41067
NORFOLK VA 23541-1067

SCOTIABANK
ATTY PATRICIA VARELA
PO BOX 192938
SAN JUAN PR 00919-3409

Scotiabank De Puerto Rico
290 Jesus T Pinero Ave
Hato Rey, PR 00919

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Martinez & Torres Law Offices, P.S.C
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SAN JUAN, PR 00919-2838

Synco/Walmart
PO Box 965024
Orlando, FL 32896-5024

Synchrony Bank
PO Box 960061
Orlando, FL 32896-0061

(p)T MOBILE
C O AMERICAN INFOSOURCE LP
4515 N SANTA FE AVE
OKLAHOMA CITY OK 73118-7901

(p)TD BANKNORTH NA
70 GRAY ROAD
FALMOUTH ME 04105-2299

ALEJANDRO OLIVERAS RIVERA
ALEJANDRO OLIVERAS CHAPTER 13 TRUS
PO BOX 9024062
SAN JUAN, PR 00902-4062

FEDERAL LITIGATION DEPT. OF JUSTICE
PO BOX 9020192
SAN JUAN, PR 00902-0192

FELIX ANGEL FALCON FIGUEROA
HC 04 BUZON 8009
AGUAS BUENAS, PR 00703-8802

MONSITA LECAROS ARIBAS
OFFICE OF THE US TRUSTEE (UST)
OCHOA BUILDING
500 TANCA STREET SUITE 301
SAN JUAN, PR 00901

MYRNA JURADO RODRIGUEZ
HC 04 BUZON 8009
AGUAS BUENAS, PR 00703-8802

ROBERTO FIGUEROA CARRASQUILLO
PO BOX 186
CAGUAS, PR 00726-0186

ROSA E RODRIGUEZ VELEZ
US ATTORNEYS
TORRE CHARDON STE 1201
350 CARLOS E. CHARDON AVE
SAN JUAN, PR 00918-2124

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Capital One Bank Usa N
15000 Capital One Dr
Richmond, VA 23238

Portfolio Recovery Associates, LLC
POB 12914
Norfolk VA 23541

T-mobile
12920 Se 38th Street
Bellevue, WA 98006

TD Bank N.A.
Attn: Bankruptcy Dept.
ME2-002-035
P.O. Box 9547
Portland, ME 04112-9547

End of Label Matrix
Mailable recipients 50
Bypassed recipients 0
Total 50



Status Report Pursuant to Servicemembers Civil Relief Act

SSN: XXX-XX-8982
 Birth Date:
 Last Name: FALCON FIGUEROA
 First Name: FELIX
 Middle Name: A.
 Status As Of: Dec-22-2017
 Certificate ID: 9NJZBFJ5Q7H9ZS2

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Michael V. Sorrento, Director
 Department of Defense - Manpower Data Center
 400 Gigling Rd.
 Seaside, CA 93955

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. ? 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q33) via this URL: <https://scra.dmdc.osd.mil/faq.xhtml#Q33>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. ? 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC ? 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC ? 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC ? 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.



Status Report Pursuant to Servicemembers Civil Relief Act

SSN: XXX-XX-6305
 Birth Date:
 Last Name: JURADO RODRIGUEZ
 First Name: MYRNA
 Middle Name:
 Status As Of: Dec-22-2017
 Certificate ID: HD7JYXFDV0ZCCFJ

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the Individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

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Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

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